The Solicitors' Journal

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Current Topics.

The Budget.

MR. CHAMBERLAIN'S first Budget speech has been very well received despite the fact that it was devoid of any reliefs for the taxpayer. Two changes were foreshadowed, however, which will be of considerable importance to traders. The first is the increase of 10 per cent. in the normal allowances for wear and tear of plant and machinery, and the second relates to the priority of allowance for wear and tear and losses carried forward from one year to another. It will be remembered that the Revenue authorities have insisted that, before a claim to carry forward losses under s. 33 of the Finance Act, 1926, could be given effect to, any wear and tear allowances due must be exhausted. As there is no time limit during which wear and tear relief can be carried forward, it was in the interests of the trader to use up any losses before setting off the wear and tear. There seems to have been no statutory authority for the official practice, and it is well that provision is to be made in the Finance Bill to give the taxpayer the right of claiming which allowances shall receive priority of deduction. The vexed question of the liability or exemption to income tax of co-operative trading profits is again to be shelved by the appointment of an independent committee of enquiry. Already three bodies have investigated the matter, and it would seem that no fresh evidence can be submitted by either side. The fundamental basis of the present exemption is the principle of mutuality, and this element in co-operative trading is said to have become so diluted that the exemption should cease to operate. If the proposed committee is to be composed of persons with a practical knowledge of taxation principles the enquiry may have the effect of settling the question once and for all. It is regrettable that the CHANCELLOR OF THE EXCHEQUER was unable to give any measure of relief to the family man, who was so hardly hit by the changes introduced by LORD SNOWDEN. The new method of collecting tax from employees, which is to be voluntary, has little in its favour. Not only will it throw a burden of responsibility upon employers who agree to adopt it, but it is likely to cause friction between master and servant. The early decision of the CHANCELLOR OF THE EXCHEQUER to overcome the ruling of the House of Lords in the *Beloe Case* that voluntary pensions are not taxable has created great disappointment, but the thousands of potential claimants would have been costly to satisfy. It is certain that viewed nationally, and not individually, the proposals are as good as they could be in the present state of our finances.

State of the Lists.

OF LATE one has heard so much about the law's delays and the huge accumulation of arrears in certain classes of actions, that it is somewhat refreshing to find that in one type of case, at all events, the work is well in hand. The Short Cause List would appear to be in a very satisfactory position judging by the opening remarks of counsel in an Order XIV, before Mr. Justice MACKINNON, on the 18th April. "Before I begin," said counsel, "may I apologise for certain deficiencies in the way of supplying your lordship with copies of documents. This case was only set down last Thursday and is in the list to-day (Monday), and there has not been time to prepare the case with the fullness desirable." Therein, perhaps, lies the danger of too speedy litigation. It would be a remarkable state of affairs if in the near future action has to be taken to fix a longer period between the setting down of a case and the hearing, in order to secure adequate preparation and presentation! At present a short cause becomes available for hearing on the 8th day after the date of the Order made by the Master, irrespective of the day it is set down. The Master, has, of course, a discretion to extend that period where he thinks a longer time for the proper preparation of the case is necessary. Unhappily, as is common knowledge, the arrears in the common jury list are very large, and hundreds of actions are awaiting trial. A severe comment in this connexion was made, also on the 18th April, by Mr. Justice DU PARCQ. One of the parties in each of three common jury actions before his lordship did not appear. "It is lamentable," protested the judge, "with hundreds of actions waiting to be tried, and which have necessitated the appointment of an additional judge, that the daily cause lists should contain many non-effective cases." Solicitors, he added, should take the trouble to inform the associates if there was any doubt about their cases being effective, so that effective cases might be added to the list for hearing.

The Half-Commission Man.

THE LEGAL position of the remisier or half-commission man on the Stock Exchange was recently considered by Mr. Justice ROCHE in *Waithman, Donegan & Co.* v. *Ramirez* (see p. 290, *infra*), in which the plaintiffs, who were stockbrokers, claimed from a remisier the balance due to them for the purchase and sale of shares on behalf of the defendant personally, while the defendant, who admitted the claim, by counter-claim and set-off claimed commission which he alleged exceeded the amount of the claim. It appeared that in April, 1926, the defendant, while in the employ of a Venezuelan General resident in Paris, made a contract with the plaintiffs

that he should receive half-commission on all dealings in stocks and shares by the plaintiffs with clients introduced by him. Later he introduced the general and some of his friends to the plaintiffs and substantial business resulted, the defendant receiving from April, 1926, to October, 1928, more than £2,000 commission. In October, 1928, the plaintiffs were told by the General that the defendant had left his service and that the plaintiffs were no longer to pay any commission to the defendant on his dealings in stocks and shares. By r. 199 (5) of the Rules and Regulations of the Stock Exchange, of which the defendant had been informed on making the contract, "a broker who shares commission with an agent shall render a contract note, naming the agent and stating that the commission charged is shared with such agent under the provisions of this Rule." Mr. Justice ROCHE held that under the Rules and Regulations of the Stock Exchange and under the general law half-commission could not be paid to an agent without the principal's consent. The defendant's right to receive commission from the plaintiffs therefore ceased when the general withdrew his consent to the receipt by the defendant of the commission. The half-commission man on the Stock Exchange is often a salaried servant of the broker, but he may also be an independent person, either with a chair in the brokers' office or merely introducing business as an outsider, as in the case under consideration. Whatever his business relationship with his principal may be, it is clear that he is legally an agent, though what is his particular authority is sometimes difficult to determine. In the recent case of *Davison* v. *Schwab and Others* (*The Times*, 28th January, 1931), a firm of brokers was held liable in damages for negligent advice given to a client by a half-commission man, on a finding by the jury that the giving of advice was incidental to transactions adopted by the firm, and that the remisier was the agent of the defendants in giving that advice. See also *Spooner* v. *Browning* [1898] 1 Q.B. 528. But it is reassuring to find that the general rule of agency law that an agent cannot take commissions without the principal's consent (*Fullwood* v. *Hurley* [1928] 1 K.B. 498) is adopted by the Rules and Regulations of the Stock Exchange.

Bribery.

ONE OF the commonest causes for failure to prosecute bribery may be, as was stated in a letter from the Bribery and Secret Commission Prevention League which we published last week, the reluctance of business men to prosecute for fear of consequences to their trade; but surely another very common cause lies in the nature of the offence itself. It is compared to blackmail; but an important difference is that blackmail means painful, and bribery painless, extraction. The victim of blackmail knows only too well that he is being robbed: the victim of bribery may never find out. Indeed, it would be impossible to hazard as much as a guess as to how often this offence is committed. Apart from the ordinary case of the secret commission, there are several forms of the offence known or suspected to be rife, but impossible of proof. In some cases one might say that usage has almost sanctioned the practice; commercial travellers who hand a shilling or a half-crown to a doorkeeper to facilitate obtaining interviews with buyers hardly regard themselves as guilty of bribery. It seems to be one of those cases in which morality must not look to law for active assistance.

The Non-Statutory Adoption of Children.

MR. CECIL CHAPMAN has written to *The Times* as to the possible dangers to children resulting from their adoption on an informal or non-statutory basis. Within its scope the Adoption of Children Act, 1926, carefully safeguards an infant's interest by requiring an order of a court for adoption, which is only to be made when the court is satisfied that the adoption will be for the child's welfare. Part I of the Children Act, 1908, protects infants under seven years of age from the cruelties involved in the old-fashioned "baby-farming." Informal adoption of children over seven years of age, however, is not specifically regulated, and, as Mr. CHAPMAN points out, any individual can now open an adoption agency and accept fees from parents and adopters alike. Children informally adopted have, it is true, such protection as is afforded by s. 12 of the Children Act, 1908, dealing with cruelty to children on the part of those who have custody of them, but there is no machinery for supervision in such case, nor is there any guarantee that the adopter is a fit person to be entrusted with the custody of a particular infant, or any infant. In the circumstances, Mr. CHAPMAN'S plea for control may be deemed to have substance, but, as a legislative problem, it might be difficult to define such non-statutory adoption as required control. Sometimes parents will place a child out with relatives or friends, so that they can continually keep in touch with it, and they might naturally resent outside supervision and interference when they were themselves adequately seeing to the child's welfare. At the other end of the scale would be those parents who practically surrendered their children to anyone who would save them the trouble and expense of bringing them up. The comment may be made that such unfortunate children would not be likely to be much worse off with whosoever took them than with their own parents. If there are people who keep agencies for the adoption of children on a non-statutory basis some power of regulation over them and their businesses may appear distinctly advisable. Mr. CHAPMAN also makes good points in suggesting that no child should be sent out of the United Kingdom with a view to adoption without the consent of the Home Secretary, nor, without similar consent, be permanently handed over to the care of an alien. Obviously, when parents renounce their duties, the care of the King as "*parens patriæ*" is needed as laid down in *Shaftesbury* v. *Shaftesbury* (1723), Gilb. Eq. 172, and *Re A.B.* (1885), 1 T.L.R. 637, and should be exercised accordingly.

Oral Evidence in the Court of Appeal.

ALTHOUGH BY the Rules of the Supreme Court an appeal to the Court of Appeal is a re-hearing, and therefore there is nothing to prevent the court taking fresh evidence, either oral or on affidavit, the almost invariable practice is to consider only the evidence which was before the court of first instance. Recently however, Court of Appeal No. 2 was engaged for a day and a half in hearing evidence given in the witness box, or rather in the reporters' seat, for there is no witness box in the Court of Appeal, by two experts in Russian law, one of them giving his evidence in English and the other in German. The reason for this unusual proceeding was a somewhat curious one. The appeal was in one of the numerous Russian bank cases in which the question at issue depended on whether at the material date the particular bank was or was not a living entity according to the Soviet law. In an earlier case the same court had decided that another Russian bank was not in existence, by reason of the fact that a number of Soviet decrees had liquidated or extinguished all Russian banks. This might seem to be conclusive that the bank in question had, like the others, been extinguished, but foreign law being a question of fact, the court, following the decision in *McCormick* v. *Garnett*, 23 L.J. Ch. 777, held that it could not take note in one case of Russian law which had been proved in another case as a fact, but must require the foreign law to be proved again in the case before it. Accordingly, the court ordered an enquiry before the Official Solicitor, who took evidence on affidavit from a Russian expert on the subject, and leave was given to the party impugning the view thus presented to cross-examine the deponent and to call as it were rebutting evidence from another expert. This was accordingly done last week, and the court, after hearing the evidence of the two experts and the arguments of counsel, reserved judgment.

Criminal Law and Practice.

FOOTBALL POOLS.

A series of cases taken before one of the Metropolitan magistrates sitting at the Bow-street Police Court illustrates the difficulties which arise from the confused condition of our law as to gaming and the ingenuity used to evade it.

The "football pool" in its several forms was the subject of these prosecutions.

In the first of these prosecutions, in January, 1931, the offence alleged was the use of premises for receiving money as consideration to pay moneys thereafter on the results of football matches contrary to the second part of s. 1 of the Betting Act, 1853.

The *modus operandi* was the giving by the defendant of a credit for twenty shillings "on no account to be exceeded." All the money received, less 10 per cent. and expenses, was paid out to winning clients. The right not to pay out more than 10,000 to 1 was reserved. Forecasts had to be posted on Friday night, and stake money on Saturday after the matches had been played. As the magistrate said, the position of the defendant was that he received the forecasts and collected the money; he distributed that money, less the deductions mentioned above, among the members of the pool; he guaranteed the honesty of the members; he took a percentage for his pains, and deducted the expenses of running the pool.

Apart from authority, the transactions in evidence are not bets at all, and this was the view taken by Lord Blanesburgh in *Attorney-General* v. *Luncheon & Sports Club* [1929] A.C. 400. But even on the assumption they were bets, the magistrate held that the bets were not made with the defendant, and he quoted in his judgment the observation of Lord Buckmaster in the case cited above: "This matter can best be considered in the light of contract. The making of a bet is none the less the making of a contract, because it is by Statute unenforceable and void." Analysing the transactions before him, and applying the observations of the judges in the *Luncheon and Sports Club Case*, the magistrate found that the defendant in the case before him was in the position of the club. He also considered the Scottish case of *Strathern* v. *The Scottish Greyhound Racing Company Ltd.* (1930), Scots Law Times 419, and found no material difference. The only doubt which arose was as to the 10,000 to 1 reservation, to which extent the defendant had a chance of winning something on the result of the match. He could lose nothing except on discredited coupons. The magistrate treated the reception of any money due to the 10,000 to 1 rule as additional remuneration for services rendered, and he dismissed the summons.

Had the summons been under the last portion of s. 1 of the Betting Act, 1853, the result must have been different, for the words there used bring in the distributing agent's guarantee of honesty. The words are "keeping an office for the purpose of money being received by the keeper as the consideration for securing the payment by some other person of money upon a contingency relating to a game."

The next stage was a decision on summonses against the same defendant on the same facts, alleging the publication of coupons in respect of a ready money football betting business, contrary to s. 1 of the Ready Money Football Betting Act, 1920. These were dismissed on the ground that there were no bets.

The magistrate quoted the observations of Lord Blanesburgh in *Attorney-General* v. *The Luncheon & Sports Club*, *supra*, and then proceeded to consider the transactions before him, "in the light of contract." He observed that a bet being a contract, it is subject to all the incidents of a contract, and there must be "offer and acceptance." It might, he said, be argued, "that the bookmaker publishes a general offer holding himself out as an agent for all persons who will make that offer their own and accept similar offers, and that each pool member, by subscribing to the pool, at once makes that offer his own and notifies to the common agent of all the pool members his acceptance of all similar offers already made or to be made by other present or future members of the pool." "This," he went on, "strikes me as carrying too far the notions of publication of a general offer and implied acceptance, and as too vague and general a basis for creating rights and obligations (or what would be rights and obligations if enforceable)." and he dismissed the summonses on the express ground that there were no bets.

He added that, if he were overruled on that point, he should convict. He mentioned a previous case against the same defendant in 1923, where the rule was that if stakes were posted later than 4.45 on Saturday, "you will not be on if you win." This, held the magistrate, was "no money, no bet," and consequently the betting was not credit betting, but ready-money betting. After that decision the rule was varied to "The stake money must be forwarded whether you win or lose." But this, in the magistrate's opinion, left the essence of the transaction unaltered. It was still "no money, no bet."

A case was applied for, but not stated, owing to the death of the respondent. Moreover, the decision in *Richards* v. *Price* [1931] 2 K.B. 204, was given, and though the prosecution there was under the Street Betting Acts, 1906, and not under the Ready Money Football Betting Act, 1920, the Lord Chief Justice and Avory, J., were of opinion, on facts very similar to those outlined above, that betting was taking place among the various members of the public who accepted the invitation to take part in football pools.

Consequently, in a similar case before the same magistrate, on the 1st April this year, he felt compelled to hold that there was betting. It was again a case of no money, no bet. The relevant rule required signature of a promise "to remit the full amount whether I have a winning line or not after I have seen the results of the matches."

Judgment was given by the same magistrate in another case, on the same day. There was a summons under the Lotteries Act, 1823, s. 41, and the Vagrancy Act, 1824, ss. 4 and 21, for publishing proposals for a lottery, and two under the Ready Money Football Betting Act, 1920, for publishing a coupon and for publishing a circular.

Here the defendant purported to make his clients his agents. He issued to them "treble cards," a circular of instructions, and order forms and statements of transactions. The agent's business was to sell as many cards as he could, make a return to the defendant of sales, unsold returns and cash remittances; and to post return and cash for tickets sold after the time of the matches, to reach defendant on Mondays. The amounts won on an agent's card were posted to him as soon as defendant had the accountant's certificate on the week's transactions. If documents and cash were not duly sent in, all that agent's cards became void.

The "treble cards" were headed, "Skill football treble totes, £500 weekly in free prizes divisible as tote rules, 12 separate pools." There was a list of prizes and of matches. Each card contained three suggested teams for the holder, who could, however, substitute others. One rule ran, "Credit only, money must be posted Saturday night or Sunday and must reach us Monday through agents." Each card contained a "tip" for a horse race.

The circular informed agents that, "The fact that you are selling information, and the prizes are free, and that purchasers are invited to exercise their skill, makes it a legal proposition."

The "sale" of the tip, as the magistrate pointed out, would not remove the transaction from the category of lottery, if it was a distribution of prizes by lot or chance.

The real issue was, however, skill or no skill. Some of the prizes, said the court, depended entirely upon chance. "Take for example the prize of £30 for three home teams scoring exactly four goals each, or the prize of £30 for three home teams scoring no goals." Whether there was or was not skill in other cases, the scheme, was, held the magistrate, a lottery.

The magistrate also held that the offences had been committed against the Ready Money Football Betting Act, 1920.

The person who bought a card for 6d. wagered his 6d. against the defendants' £70 that he would make a correct selection. Such transactions were bets. They were ready-money bets, because the rule was "no money, no bet."

The prosecutions described above illustrate admirably the principles which must be followed in considering such matters. What is the real nature of the transaction? Do the accompanying circumstances modify it or merely attempt to disguise it?

Stolen Cheques and Branch Banks.

It is a common and convenient practice for branch banks to receive cheques for the account of customers who have accounts at other branches of the same bank. The Court of Appeal recently examined the working of this system in *E. B. Savory & Co.* v. *Lloyds Bank Ltd.* (*The Times*, 23rd March, 1932), and came to the unanimous conclusion that a long-established banking practice on the part of the receiving branch not to tell the customer's branch who was the drawer or the payee of the cheque amounted to negligence, so as to deprive the bank of the protection afforded by s. 82 of the Bills of Exchange Act, which protects the collecting banker as against the true owner where the former receives payment for a customer of a crossed cheque in good faith and without negligence. The plaintiffs were stockbrokers, and in the course of their business used to draw crossed bearer cheques. From 1924 to 1930 two clerks in the plaintiffs' employ stole a number of those cheques and paid them into accounts kept with the defendants. One of them always paid the stolen cheques into another branch than the branch of the defendants' bank in which he had his account, and the other paid the cheques into the defendants' head office to be credited to an account which his wife had at a branch of the defendants' bank. Mr. Justice Roche held that the defendants had acted in good faith and without negligence and were entitled to judgment except in the case of one cheque, with regard to which the defendants had admitted that they were liable, having dealt with it before she became a customer. On appeal, Lord Justice Scrutton said that unless the customer's branch knew the drawer, payee and the person paying in the cheque, there was nothing to put that branch on inquiry, and protection to the true owner was destroyed. The defendant bank caused the person paying in at the receiving branch to sign a paying-in slip, which contained the name of the customer and the branch at which he banked, the amount of the cheque and the name of the person paying in, and sent the slip to the customer's branch, without telling the customer's branch the drawer or the payee of the cheque, thus depriving the branch of their opportunity of using their knowledge of the customer or his employer. An obvious alteration in the form of the paying-in slip would have put the manager of the customer's branch on inquiry and enabled him to discover the fraud. The defendant bank was therefore negligent. In the case of the cheques paid in to the account of the wife of the second clerk, the bank was also negligent in not inquiring into the occupation of the husband, especially as the account was fed practically entirely by stolen cheques. His lordship held that "husband and wife were usually sufficiently one person to require the bank in opening the account to ascertain the occupation of the husband, and if he was an employee the name of the employer." The appeal was, therefore, allowed and judgment entered for the plaintiffs for the full amount of their claim. It is important in the interests of bankers to stress that the Court of Appeal found the practice which we referred to above quite unobjectionable, as the customer's branch would not allow the customer to draw against a cheque paid into the receiving branch until they had heard that the cheque was cleared. All that is necessary to make the practice perfect is a slight alteration in the form of the paying-in slip used in such cases.

Decisions and Notes on L.P.A., 1925

(*Continued from p.* 260.)

Part II.

Effect of the Statutory Trusts Arising under Part IV of L.P.A., 1925, 1st Schedule and L.P.A., 1925, s. 35.

Such trusts are paramount to and override the trusts of the will or settlement (if any) under which the land is held in shares.(48)

If the trusts affecting the land before 1926 are being administered by the court and a receiver has been appointed in the action, the land can be sold under the statutory trusts without the leave of the court,(49) though it may be necessary to obtain an order directing the receiver to deliver up possession to the purchaser.(49)

These statutory trusts—

(i) Override a right of pre-emption under a will.(50)

(ii) (If exercised) defeat a clause forfeiting the interest of a beneficiary who ceases to reside on the land.(51)

(iii) May render impossible and therefore destroy a condition precedent to a gift.(52)

(iv) Override restrictions on a sale imposed by a will.(53)

(v) Destroy a power contained in a will to partition or appropriate land.(54)

(vi) Destroy the powers (existing at the end of 1925) of tenants for life, to sell, mortgage or otherwise deal with their shares of the land, and they appear to have no corresponding powers over their shares of the proceeds of sale. Possibly the same applies to trustees for sale. The case of mortgagees is different and is specially provided for by L.P.A., 1925, s. 102. Personal representatives and trustees in bankruptcy must, it is suggested, have full power to dispose of their shares of the proceeds of sale.

(vii) Adeem a specific devise of an undivided share of land contained in a will made before 1926,(55) and not confirmed by a codicil made after 1925.(56)

There appears to be no ademption where the devise is of all the testator's share and interest in the land.(57)

(viii) Turn shares in freehold land from realty into personalty, and thus take such shares out of a gift of all realty and put them amongst the residuary personalty.(58)

(ix) Convert an estate tail in an undivided share of realty into absolute ownership of a corresponding share of the proceeds of sale.(59)

(x) May make the income of a share of leaseholds applicable in accordance with s. 28 (2) of L.P.A., 1925, instead of in accordance with the rules before 1926 applicable to leaseholds held on an express or implied trust for sale.(60)

(xi) Give the trustees special powers under L.P.A., 1925, s. 28 (1) and (2), and S.L.A., 1925, s. 84, s. 102 (2) (*b*) and s. 102 (3), to effect repairs and improvements, and in some cases to decide whether the expense shall come out of income or capital.(61)

(48) *Re Thomas* [1930] 1 Ch. 194, at p. 197.
(49) *Bernhardt* v. *Galsworthy* [1929] 1 Ch. 549.
(50) *In re Flint* [1927] 1 Ch. 570.
(51) *In re Davies' Will Trusts* [1931], W.N. 263.
(52) *In re Thomas's Will Trusts* [1930] 2 Ch. 67.
(53) *In re House* [1929] 2 Ch. 166, at p. 172.
(54) *In re Thomas* [1930] 1 Ch. 194.
(55) *In re Newman* [1930] 2 Ch. 409.
(56) *In re Warren* [1932] 1 Ch. 42.
(57) *Re Mellish* (unreported) but referred to [1929] 2 K.B. 82, note. See the comments thereon in *Re Kempthorne* [1930] 1 Ch. 268 and in *Re Newman* [1930] 2 Ch. 409.
(58) *In re Kempthorne* [1930] 1 Ch. 268.
(59) *In re Price* [1928] 1 Ch. 579, as to which see 71 L.J., pp. 272 and 290. See also *In re Thomas's Will Trusts* [1930] 2 Ch. 67.
(60) *In re Brooker* [1926], W.N. 93.
(61) See *Re Gray* [1927] 1 Ch. 242; *Re Robins* [1928] Ch. 721; *Re Whitaker* [1929] 1 Ch. 662; *Re Conquest* [1929] 2 Ch. 353; *Re Smith* [1930] 1 Ch. 88.

(xii) Prevent a long term of years of an undivided share of land being enlarged into a fee simple estate, and apparently destroy the leasehold estates of lessees of undivided shares of land.

(xiii) Prevent an executory limitation over in default of issue becoming void under L.P.A., 1925, s. 134, on issue attaining twenty-one after 1925.(62)

(xiv) Prevent an incumbrance on an undivided share being discharged under L.P.A., 1925, s. 50.(63)

The statutory trusts do not—

(1) Prevent the right of trustees, who at the end of 1925 held an undivided share in trust for sale, to receive the share, comprised in their trust, of the proceeds of sale, and of the rents and profits until sale.(64)

(2) Prevent a solicitors' remuneration clause in a will applying to work done in connection with the statutory trusts.(65)

(3) Alter the incidence of estate duty (66) which remains payable as on real estate.

Doubtless many other questions as to the effect of statutory trusts remain to be determined, e.g., their effect on the title to a share of a trespasser who at the end of 1925 had been less than twelve years in possession,(67) and on restrictive covenants obtained before 1926 by tenants in common where the land did not vest in 1926 in the covenantees and the benefit of the covenant was not annexed to land,(68) and on easements held by the owner of an undivided share.(69)

The statutory trustees can, under L.P.A., 1925, s. 25 (1), postpone conversion, so long as they all agree to do so.(70) But they are required by L.P.A., 1925, s. 26 (3), as enacted by the Amending Act of 1926, so far as practicable to consult, and carry out(71) the wishes of, their beneficiaries (72) not only with regard to the execution of the trust for sale, but also with regard to the exercise of all other trusts and powers arising under the S.L.A., 1925, and L.P.A., 1925 and 1926, and the additional or larger powers conferred by the settlement on the trustees thereof or otherwise.(73) The words "so far as practicable" cover the case where the trustees do not know and cannot ascertain the title to one or more shares.

APPOINTMENT OF NEW TRUSTEES.

It seems that the statutory trusts under Pt. IV are new trusts distinct from trusts previously affecting the legal estate,(74) so that where para. 1 (1) applies and the original statutory trustees are trustees of a document, a subsequent appointment of new trustees of such document does not appoint new trustees of the statutory trusts.(75)

(62) 76 Sol. J. 179.
(63) 76 Sol. J. 212.
(64) *In re Hayward* [1928] Ch. 367.
(65) *In re Pedley* [1927] 2 Ch. 168—where the clause was in a very wide form.
(66) *In re Wheeler* [1929] 2 K.B. 81, note; *A.-G.* v. *Public Trustee* [1929] 2 K.B. 77.
(67) 172 L.T.J. 247. Probably L.P.A., 1925, s. 35, does not destroy the inchoate rights of the trespasser: see *Perry* v. *Clissold* [1907] A.C. 73, and cases there cited.
(68) See Jolly's "Restrictive Covenants," 2nd ed., pp. 43-49.
(69) L.P.A., 1925, s. 187 (2), does not apply.
(70) *In re Roth* (1876), 74 L.T. 50, and *In re Hilton* [1909] 2 Ch. 548.
(71) *In re Warren* [1932] 1 Ch. 42, at p. 47.
(72) Including annuitants: see *In re House* [1929] 2 Ch. 166, at p. 172.
(73) *In re Jones* [1931] 1 Ch. 375.
(74) See notes (48), (49) and (50), *supra*.
(75) See 75 Sol. J. 668 and 694. The contrary appears to have been decided by Mr. Justice Astbury in 1929 in the unreported case of *Re Wilson* (see 67 L.J. 137 and 72 L.J. 105) and is treated as correct by J. M. L.: see 72 L.J. 191.

If the view taken in the above article is not correct, then where land vests under para. 1 (1) in B, as the personal representative of A, and B dies being an administrator or intestate, the statutory trusts would seem to devolve on the next personal representative of A when constituted. See the remarks at the end of the above note on para. 1 (1).

The statutory trusts under L.P.A., 1925, s. 31 and s. 32, seem to stand on a very different footing to those under Pt. IV.

If this view be correct, then where under para. 1 (3) land has vested in the trustees of a settlement on the statutory trusts, a subsequent appointment of new trustees of the settlement does not appoint new trustees of such statutory trusts.

Under Trustee Act, 1925, s. 37 (1) (*b*), a separate set of trustees, not exceeding four, may be appointed for any part of the trust property held on trusts distinct from those relating to any other part or parts of the trust property. Under this power, separate trustees cannot be appointed for one house out of a row of a dozen houses held on the same statutory trusts. What "the trust property" may consist of or include may be difficult to determine, e.g., where A and B at the same or different times bought lands and had them by separate deeds conveyed to themselves as tenants in common.

An appointment of new trustees of the trusts relating to one property will appoint new trustees of the whole trust, and will therefore extend in effect to all the properties subject to the trust.

If, in a case to which para. 1 (4) applies, beneficial interests in one house (being part only of the trust property) are sold, it would seem that such house becomes held on trusts distinct from those relating to the rest of the trust property, so that, under proviso (iii) to para. 1 (4), the persons interested in that house only can appoint new trustees in the place of the Public Trustee of the statutory trusts relating to such house.(76)

(76) It has been suggested ("Conveyancer," vol. 15, p. 127) that "persons interested" mean persons interested at the end of 1925.

Costs.

INSTRUCTIONS FOR BRIEF.

The item which gives the greatest trouble in drafting a bill of costs, and which is always the chief source of contention between the parties on taxation, is that popularly described as "Instructions for Brief."

This item, broadly, is intended to cover all the work necessarily done in obtaining the evidence to support the case, and to procure the attendance of the witnesses.

It will be remembered that Ord. 65, r. 27 (29), gives the Taxing Master discretion to allow "all such costs, charges and expenses as shall appear to him to have been necessary or proper for the attainment of justice," whilst sub-r. (9) of the same rule states "as to evidence, such just and reasonable charges and expenses as appear to have been properly incurred in procuring evidence, and the attendance of witnesses, are to be allowed."

It will be observed that the Taxing Master has a very wide discretion as to the charges that he may allow in respect of these matters, all of which are generally included under the heading "Instructions for Brief." In fact Buckley, L.J., observed in the case of *Ogilvie* v. *Massey*, 103 L.T. 154, that "on the question of quantum the decision of the Taxing Officer is, generally speaking, final. It must be a very exceptional case in which the court will even listen to an application to review his decision."

The court will, however, interfere where there has been a serious mistake (*Turnbull* v. *Janson*, 26 W.R. 815); or where there is a question of principle involved (*Ogilvie* v. *Massey*, *supra*); or where the Taxing Master has acted on a wrong principle (*Slingsby* v. *A.-G.* (1918), 119 L.T. 104).

The item will include such matters as the perusal and consideration of the documents in the case, attendances on the witnesses and ascertaining what evidence they can give, attendances on expert witnesses supplying them with the data to enable them to qualify to give evidence, making copies of necessary documents for their use, journeys necessarily undertaken by the solicitor to interview the

witnesses, including his time and expenses, correspondence with agents instructing them as to the evidence and documents required, including their charges for these services, and similar items to obtain the facts and information necessary to prove the client's case.

In fixing the fee no arbitrary rule can be laid down, for the Taxing Master must have regard not only to the documents used in the case or to the number of witnesses, but he must also take into account the importance of the point in dispute and the responsibility of the solicitor conducting it (*London, Chatham & Dover Ry.* v. *South Eastern Ry.* (1889), 60 L.T. 755). Moreover, it will be observed from this last-mentioned case that the amount of evidence actually used in court will not constitute the limit of the evidence, the costs of which will be allowed as between party and party.

It is the practice of some solicitors to charge a round sum of so many guineas under the heading of "Instructions for Brief," without any, or at the most very little, information as to the work that it is intended to cover. This practice has been strongly deprecated and Master KING, in his book on "Costs," and his words were approved by SWINFEN EADY, L.J., in the case of *Slingsby* v. *A.-G.*, *supra*, observed that "the length of the documents perused (in cases in which perusal has not previously been charged), the names of the witnesses who have been attended, the places to which journeys have been made with the time occupied in each and the amount of the travelling expenses, should be stated."

One other point is of interest, and that relates to the amount of work in point of time which may be included in the item. It not infrequently happens that part of the fee charged as "Instructions for Brief" may be disallowed by reason of the fact that the work done is considered premature.

Again, no hard and fast rule can be laid down, and although it is often considered inadvisable to prepare the briefs before notice of trial has been given, it was decided in the case of *Windham* v. *Bainton* (1888), 21 Q.B.D. 199, that the work done in procuring evidence before notice of trial was given was not premature.

Moreover, in the case of *Bright's Trustees* v. *Sellar* [1904] 1 Ch. 369, one party was threatened with an action for fraud, and it was decided that his solicitors were not premature in immediately obtaining evidence, even before the writ was in fact issued.

Again, in the case of *Pêcheries Ostendaise* v. *Merchants' Marine* [1928] 1 K.B. 750, an action on a marine insurance policy, it was held that the costs and expenses of the plaintiffs' solicitors in respect of journeys to the Continent to obtain evidence from the crew of the vessel that was lost were properly included in the item "Instructions for Brief," although such journeys were undertaken only on receipt of a letter from the defendants, the underwriters, intimating that the claim would be disputed and before the plaintiffs had issued a writ.

Mr. Reginald Potts, solicitor, of Moston, near Chester, and of Chester, for forty-one years Clerk to the Cheshire County Council and Clerk of the Peace for the county, who died on 26th November, left estate of the gross value of £53,405, "so far as at present can be ascertained," with net personalty £42,323. He left: An annuity of £52 to Edith Griffiths, if still in his service, and £150 to his trustees to be divided among such other indoor and outdoor servants as his wife may think proper; and the residue of the property upon trust for his wife for life, and then as to £500 to the Chester Royal Infirmary, and £500 to the Dean and Chapter of Chester Cathedral, for the restoration or preservation of the cathedral.

Sir Hamilton John Hulse, eighth baronet, of Breamore, Hants, barrister-at-law, formerly private secretary to Lord Randolph Churchill, left unsettled property now valued at £38,513 gross, with net personalty £31,193. A grant in respect of settled lands valued at £225,000 was issued in February, making a total value of £263,513.

Legal Maxims.

Verba accipiuntur fortius contra proferentem.

"ALL the words of a deed shall be taken most strongly against him that doth speak them, and most in advantage of the other party": "Sheppard's Touchstone of Common Assurances," p. 87.

This canon of construction, the basis of which is the maxim *Verba accipiuntur fortius contra proferentem*, is applicable not only to deeds, but to written instruments generally, e.g., charter-parties, *Burton* v. *English* (1883), 12 Q.B.D. 218, and insurance policies, *Thomas* v. *Weems* (1884), 9 App. Cas. 671. Similarly, covenants are construed most strongly against the covenantor. "For although the words of a covenant are to be construed according to the intent of the parties, yet they are to be taken most strongly against the party who stipulates": per Holroyd, J., in *Webb* v. *Plummer*, 2 B. & Ald. 746, at p. 751.

The law assumes that a man will not use language to his own disadvantage. But the aim of interpretation of written instruments is to ascertain the intention of the authors, and, as early as BLACKSTONE'S time, it was realised that this particular rule of construction might work hardship unless it was applied cautiously. Consequently, it is now well settled that it must not be resorted to until interpretation according to the other rules has failed.

It has been doubted by no less eminent a lawyer than JESSEL, M.R., whether the rule should apply at all. In *Taylor* v. *St. Helens Corporation* (1877), 6 Ch. D. 264, at p. 270, he said: " . . . I will take the liberty of making an observation as regards a maxim . . . which is to be found, I believe, in a great many text-books, and, I am afraid, also in a great many judgments of ancient date, and that is, that a grant, if there is any difficulty or obscurity as to its meaning, is to be read most strongly against the grantor. I do not see how, according to the now established rules of construction as settled by the House of Lords in the well-known case of *Grey* v. *Pearson*, 6 H.L.C. 61, followed by *Roddy* v. *Fitzgerald*, 6 H.L.C. 823, and *Abbott* v. *Middleton*, 7 H.L.C. 68, that maxim can be considered as having any force at the present day. The rule is to find out the meaning of the instrument according to ordinary and proper rules of construction. If we can thus find out its meaning, we do not need the maxim. If, on the other hand, we cannot find out its meaning, then the instrument is void for uncertainty."

This maxim is obviously inapplicable if the meaning of a document can be ascertained without recourse to it. But that criticism might be levelled at any other rule of construction, for none is applicable unless there is ambiguity or obscurity. On the other hand, if the maxim is applicable, it removes the uncertainty and saves the document. In any event, this criticism is sufficiently answered by the acceptance of the maxim in more recent cases: see per BRETT, L.J., in *Burton* v. *English* at p. 220, Lord MACNAGHTEN in *Gluckstein* v. *Barnes* [1900] A.C. 240, at p. 250, Lord WATSON in *Thomas* v. *Weems* at p. 678, and Viscount FINLAY in *Dawsons Ltd.* v. *Bonnin* [1922] A.C. 413, at pp. 430 and 431.

Subject, therefore, to the limitation that it must only be applied in the last resort, the general rule is expressed in the words of BRETT, L.J., in *Burton* v. *English*: "Where there is any doubt as to the construction of any stipulation in a contract, one ought to construe it strictly against the party in whose favour it has been made."

It is, however, to be observed that the maxim has no application to grants from the Crown. In such a case, the rule is reversed, and the grant is construed strictly against the grantee, unless the grant is expressed to be made "of special grace, mere motion, and certain knowledge": see "Halsbury's Laws of England," vol. 10, p. 442, and the cases there cited.

Company Law and Practice.

CXXVI.

INCREASE OF CAPITAL.

INCREASING the capital of a company limited by shares is an operation which is carried out daily without any hitch, but a friend has called my attention to a somewhat curious point which emerges in connexion with it. Let us first of all see what the Act has to say about increase of capital. Turning to s. 50, which is the material section, we find that the power only exists in those companies upon which it is conferred by the articles. No doubt it would be a very unusual company the articles of which excluded the relevant provisions of Table A, and yet did not confer a power to increase capital, though those who have from time to time to consider the reduction of capital by companies do find that there are companies who have no power to reduce. Though it is very rarely thought of as such, an increase of capital involves an alteration of the memorandum: one is apt to imagine that the only permissible alteration in the memorandum is an alteration with regard to the objects of the nature referred to in s. 5, but this is not so; another example which may be referred to is the power to alter the company's name, referred to in s. 19. I have stated above that an increase of capital involves an alteration of the memorandum, and in so stating I was merely following upon the wording of the section, but, if it were at all material, it could well be argued that such an operation does not, in fact, alter the memorandum. The relevant provision of the Act as to the contents of the memorandum is s. 2 (4) (*a*), which says that, in the case of a company having a share capital, the memorandum must, unless the company is an unlimited company, state the amount of share capital with which the company proposes to be registered and the division thereof into shares of a fixed amount. This goes no further than requiring the memorandum to set forth the position at a particular point of time, namely the date of registration, and the statutory form of memorandum contained in Table B of the First Schedule (a curiously stunted document when compared with our modern forms, containing as they do a confused jumble of objects and powers) states that the capital of the Company is so much.

How can it be said that an increase of capital involves an alteration of a statement that the capital of a company at a past date is so many pounds? This is a point which the draftsman of some Act in the future consolidating the law relating to companies may well take into consideration, for absolute accuracy of language is very desirable in legislation of this nature, even though it may, in any particular instance, seem an unnecessary refinement. Be that as it may, s. 50 (1) (*a*) authorises companies having a share capital, if so authorised by their articles, to increase their capital by new shares of such amount as they think expedient; while s. 50 (2) provides that such power must be exercised by the company in general meeting, and thereby arises the curious point of which I made mention at the beginning of this article. Section 41 of the Companies (Consolidation) Act, 1908, which contained, in the old days, the power to increase capital, did not make it necessary that it should be exercised by the company in general meeting; and it clearly was not necessary, because art. 41 of Table A of 1908 is in these words: "The directors may, with the sanction of an extraordinary resolution of the company, increase the share capital by such sum, to be divided into shares of such amount, as the resolution shall prescribe." It is hardly necessary to say that Table A of 1929 says that the company may from time to time increase its share capital (art. 34), and it expressly says that the company may do this by ordinary resolution, thus giving effect to s. 50 (2). But companies governed by the old Table A are still so governed, so that such companies (and all others which had articles containing a power similar to that in art. 41 of the old Table A) possess articles containing a purported power which cannot now be exercised, namely, the power in the directors to increase the capital.

Article 41 of the old Table A had one consequence which proved to be unfortunate, and that resulted from the decision in *Attorney-General* v. *Anglo-Argentine Tramways Co.* [1909] 1 K.B. 677. The decision in that case amounted to this, that, where the company passed a resolution authorising the directors to increase the capital by an amount not exceeding a particular amount, a not unreasonable resolution in view of the wording of art. 41, capital duty was at once payable on the whole amount of the new issue which was authorised. This decision was criticised with some vehemence, but it was not until it was too late to be of any material assistance that its authority was shaken by the Court of Appeal in the case of *Attorney-General* v. *Tube Investments Limited* (1930); W.N. 59, where LAWRENCE, L.J., stated that in his view it was wrongly decided. The question cannot, of course, arise in the future, but there may be a melancholy satisfaction remaining to those whose interests were affected by the Anglo-Argentine decision in that they are able to reflect that a higher tribunal might even then, as it has subsequently, have refused to take the view expressed in the court below.

Now at last we are getting nearer the point which I set out in this article to deal with. There are vast numbers of companies limited by shares, the regulations of which at the present day contain an article conferring on the directors a power of increasing the capital with the sanction of a resolution of the company. The Act now provides that the company in general meeting may increase its capital, but cannot increase it otherwise: and can only do it if it is authorised by its articles to increase its capital. Does an article in the old form authorise a company to increase its share capital in general meetings? It clearly authorises the company to increase its capital, because, even under the old law, the company had to be authorised to do it, and it could hardly be argued that art. 41 of Table A of 1908 was inconsistent with s. 4 of the Act of 1908; but this does not take us far enough. It might be said that the article in the old form only authorises the directors to do so, and that, on the well-established principle that when a company has delegated some power to the directors it cannot step in and exercise the power itself; it does not therefore authorise the company. This would seem at first sight to be a very strong argument, but the result of acceding to it would be that a very large percentage of companies registered at the present time have no power to increase their capital without first altering their articles. In a sense this can be no argument one way or the other, but it must be remembered that this code is one concerned largely with business affairs, and questions of convenience are not so remote in this connexion as in some other spheres of the law. If such a company wants to increase its capital, should it boldly purport to do so, or should it, in the old manner, authorise its directors to do so? This question and the earlier one are very much linked up together.

The practice does not appear to be uniform, some adopting one method, and some another; and if the company were to pass a special resolution increasing its capital no criticism could justly be levelled at it. Of course, the completely satisfactory solution is to alter the article first, but that involves a special resolution, involving delay, and a larger majority than might be otherwise necessary; but if this is not desired, or not possible, my own view, for what it is worth, is that the company should pass the resolution for the increase, and the argument in favour of this being the correct method is that the company has, even under the old form of article, power to increase its capital (compare s. 41 of the Act of 1908, art. 41 of Table A of 1908), and that this power has not been delegated to the directors in such a way as to preclude the exercise by the company in general meeting of what would have been, under the old law, a concurrent power, but is now, owing to s. 50 (2) of the Act of 1929, a sole power.

(To be continued.)

A Conveyancer's Diary.

Settlement reserving power to Settlor over Capital and Income—Incidence of Estate and Succession Duties.

There have been so many efforts made of late years by those who have the good fortune to possess a certain amount of money to endeavour to avoid the heavy incidence of death duties, that any case which is concerned with that subject must be of interest to the legal practitioner.

Such a case is *Attorney-General* v. *Adamson* (1932), 146 T.L.R. 358, and it raises some rather nice points with regard to estate duty and succession duty.

The facts as laid upon the information of the Attorney-General appear to have been that a settlor, being absolutely entitled to certain funds, transferred them into the names of trustees, upon trust that the trustees should pay and apply the capital of the settled funds unto all or any of the children of the settlor as the settlor might direct, and in default of any such direction and so far as any such direction should not extend, the trustees should hold such capital upon trust to pay or apply the income for the benefit of all or any of the children of the settlor during the life of the settlor as he might direct, and subject thereto to accumulate the income as an accretion to the capital. After the death of the settlor the trustees were to hold the capital and income of the settled funds, so far as not applied under the trusts aforesaid, in trust for all or any of the children of the settlor living at his death as he should by deed or will appoint, and in default of appointment in trust as to two-fifths for the settlor's son, and as to the remaining three-fifths for the daughters of the settlor who might survive him in equal shares. There was a gift over of the son's share to the daughters in the event of his not attaining a vested interest, and a further gift over, on failure of all the trusts, to the next of kin of the settlor. There was also a hotchpot clause which was made to apply to sums which the testator had paid to or applied for the benefit of some of his children before the date of the settlement.

During his lifetime the settlor appointed a sum to his son out of capital and also made some appointments out of income in pursuance of the power conferred on him by the settlement. The balance of the income was accumulated and added to the capital funds.

The settlor left four children, a son and three daughters, but he did not exercise his power of appointment except as already mentioned. Under the trusts in default of appointment two-fifths of the capital (including accumulations) went to the son, and the remaining three-fifths equally between the daughters, subject in both cases to the operation of the hotchpot clause.

The prayer of the information was that it might be declared that upon the death of the settlor estate duty at the appropriate rate became payable under the provisions of s. 1 of the Finance Act, 1894, in respect of the settled funds, or, alternatively, under the provisions of the Finance Act, 1894, in respect of the interests in the settled funds and accumulations respectively arising at the date of the settlor's death to the four children of the settlor under the settlement.

The informant also prayed that it might be declared that upon the death of the settlor succession duty at the rate of 1 per cent. became payable under the provisions of s. 2 of the Succession Duty Act, 1853, in respect of the said interests in the settled funds and accumulations of income.

The effect of the settlement was fairly stated by Rowlatt, J., in the course of his judgment. His lordship said "The substance of the matter, therefore, was that the settlor might during his life direct the capital to be given to the children as he liked or apply the income to the children as he liked. He applied some very small sums and then at his death it was to go amongst the children as he should appoint, and in default of appointment to go to the children in a certain way. I just refer to the circumstance that there was another contingency affecting the other children, namely, that they must be living at his death."

I, of course, do not know who was responsible for the preparation of this settlement. It was certainly a most ingenious document, and, of course, designed primarily to avoid the incidence of estate duty and succession duty. The funds involved were large (about £250,000 it appears), so the duty was worth saving.

The question is whether such a settlement is effectual to achieve its obvious purpose.

I have looked at all the text-books which we are accustomed to consult on the question of death duties, but I cannot find that the point raised here has been dealt with, except in the late Mr. Austen-Cartmell's book, now unfortunately out of date. In the fifth edition, at p. 36, the learned author puts this as an example of a case falling under s. 1 of the Finance Act, 1894 :—

> "A fund settled by the deceased upon trust for accumulation during his life and on his death (both as to the original fund and accumulations) for his children."

And, again, at p. 37 he says, in commenting on s. 2 (1) (*d*) of the Finance Act, 1894 :—

> "The following is a case of some difficulty : A assigns a fund to trustees upon trust to pay the income during his life to such of his children and in such shares as he shall from time to time appoint, and to hold the capital after his death upon similar trusts. In default of appointment both capital and income are to go to the children equally. A dies without making any appointment. It is thought that the case falls within the present sub-clause (and probably also under sub-clause (*c*))."

The learned author therefore anticipated some such settlement as that in *A.-G.* v. *Adamson*.

In the court of first instance Rowlatt, J., held that both estate duty and succession duty were payable on the death of the settlor. His lordship stated that the settled funds must be considered as "passing" on the death of the settlor and therefore liable to duty under s. 1 of the Finance Act, 1894, but he also thought that the case came within s. 2 (1) (*d*). That sub-clause reads :—

> "(*d*) Any annuity or other interest purchased or provided by the deceased either by himself alone or in concert or by arrangement with any other person, to the extent of the beneficial interest accruing or arising by survivorship or otherwise on the death of the deceased."

His lordship considered that in the case under consideration the children of the settlor did become entitled on his death to an interest in the funds which they had not before. Both estate duty and succession duty were therefore payable.

The Court of Appeal upheld that decision.

The Master of the Rolls dealt with the meaning of the word "passing" on the death as used in s. 1 of the Finance Act, 1894, and referred to the explanation of Lord Parker in *Attorney-General* v. *Milne* [1914] A.C. 765, in which his lordship said : "The expression 'passing on the death' is not further defined but is evidently used to denote some actual change in the title or possession of the property as a whole which takes place at the death."

In the present case the father had reserved to himself the full control of both capital and income until the day of his death and thereafter the right to the settled funds passed to his children. Lord Hanworth therefore came to the conclusion that there was a "passing" to the children upon the death of their father.

Romer, L.J., in his judgment, dealt with the point that had been taken in argument that the interests of the children were contingent, but, as he said, it was not possible to define just what that contingent interest was. His lordship concluded that in the peculiar circumstance of the case the property did "pass" on the death of the settlor.

A very interesting case.

Landlord and Tenant Notebook.

Fruit Trees.

The rights of landlord and tenant as regards fruit trees may depend on the lease or agreement, on the common law, or upon various statutory enactments. At common law, the position is that a fruit tree, whether planted by the tenant or not, and whether permanently set out or not, is part of the freehold, unless it be a trade fixture. Normally, a tenant, in order to show that a fruit tree was a trade fixture, would have to prove that he was a nurseryman; but, generally speaking, the leaning of the courts has been in favour of the tenant. The landlord in *Wyndham* v. *Way* (1812), 4 Taunt. 316, who complained of the cutting of apple trees, invoked not only the common law rule, but also an exception in the lease of "all trees, woods, coppice, wood-grounds of what kind and growth soever"; but though the premises were substantially an ordinary farm, the tenant was able to show that in that part of the country (Devon) farmers were usually their own nurserymen, and claimed that he had a right to fell and to top and lop young standard trees, though they would have borne fruit if left alone. And the court interpreted the exception as extending to timber only, observing that if literal effect were given the tenant would not even have the right to pick an apple. Soon afterwards, Lord Ellenborough, expounding the law as to the removability of fixtures, said that "many articles, though originally goods and chattels, yet when affixed by a tenant to the freehold, cease to be goods and chattels," but that they could, if within the exceptions, be reduced to goods and chattels "by severing during the term, and yet, till severed, were part of the freehold," and among a list of examples he mentioned "trees in a nursery garden": *Lee* v. *Risdon* (1816), 7 Taunt. 188, at p. 191. And in *Wardell* v. *Usher* (1841), 3 Scott (N.R.) 508, in which injury to the reversion was complained of, it appeared that the premises described as a vinery and land were a nursery garden and the tenant a market gardener; the defendant had cut down some fruit trees, and it was left to the jury to say whether these were "not larger than those dealt with in the course of a nurseryman's trade."

It has never been suggested that fruit trees might be removable as "ornamental" fixtures; presumably, in those cases in which they are ornamental, it would not be possible to remove them without (æsthetic) injury to the reversion. A flower border has, at all events, been held to be outside the scope of the exception: *In Empson* v. *Soden* (1833), 4 B. & Ad. 655, the purchaser, from a tenant, of a cartload of box and 1,000 plants, sued the seller's successor in trover for refusing to allow him to collect them, and it was held that a border of box was an addition intended to be permanent, that it could not therefore have been severed during the seller's term, and that the plaintiff had no title.

The special legislation applicable to small holdings and to market gardens appears to declare the law rather than to create new rights and obligations; but, in the case of small holdings and allotments, the tenant may find his rights enlarged or restricted according to whether the premises are a small holding or an allotment. For the Small Holdings and Allotments Act, 1908, s. 47 (4), gives the tenant of either the right to remove, during the term, fruit trees, etc., *for which he has no claim for compensation*. Now the tenant of a small holding might, but for the words italicised, claim the right of removal at common law, on the principle applied in *Wyndham* v. *Way*, *supra*; but an allotment-holder is less likely to be able to show that he is a nurseryman, and so stands to gain by this enactment. Further, if the trees were provided and planted by him, he has a right of removal under the Allotments Act, 1922, s. 4 (1). But if the smallholder is not, as was the defendant in *Wyndham* v. *Way*, merely using part of the premises as a nursery, but can claim to be the tenant of a market garden within the meaning of the Agricultural Holdings Act, 1923, then, by virtue of that statute (s. 48 (1) (iii)) he may remove all fruit trees and bushes planted *by him* on the holding and *not permanently set out*. All three Statutes respect the principle referred to in *Lee* v. *Risdon*, *supra*, by insisting on removal during the term.

With regard to compensation, both the Small Holdings and Allotments Act and the Agricultural Holdings Act include among the improvements to small holdings and allotments and to *market gardens* the planting of "standard and other" fruit trees permanently set out, the planting of fruit bushes, and also the planting of strawberry plants and of rhubarb. A special provision in the Allotments Act gives tenants of "allotments" other than allotment gardens a right of compensation for fruit trees and bushes provided and planted with the landlord's consent (s. 3 (2)). As regards agricultural holdings generally, the planting of orchards and fruit bushes, and the protecting of young fruit trees, are improvements to which the written consent of the landlord must be obtained if compensation is to be claimed.

Our County Court Letter.

ESTATE AGENTS' COMMISSION.

THE question of secrecy has been considered in two recent cases. In *Smallwood* v. *Rose*, at Scarborough County Court, the claim was for £62 16s. 6d., being balance of commission due upon the purchase of a house for £1,450, for which amount the plaintiff had also negotiated a mortgage. The defendant (who had already paid £30 as commission) admitted the claim, but counter-claimed £100 as damages, her case being that (*a*) she had signed a blank form of application for a loan, and was unaware that £1,800 had been inserted as the amount, until she was informed of the over-statement by the building society; (*b*) the plaintiff accepted £30 from the building society in addition to her own £30, and this was a breach of an implied term of his engagement as her estate agent. In a reserved judgment, His Honour Judge Beazley observed that the plaintiff was employed to purchase property at the lowest figure, but had nevertheless accepted commission from the vendor, without the plaintiff's knowledge and consent. Although the plaintiff considered there was nothing wrong in so doing, an agent who received secret commission from the other side was not entitled even to his own commission. Judgment was given, however, for the plaintiff on the claim (with costs prior to the date of the counter-claim) and for the defendant on the counter-claim for £57 16s., with costs subsequent to the date of filing.

In *Jolliffe, Flint & Cross* v. *Denham*, at the last Hants Assizes, the claim was for £300 as commission upon the sale of the defendant's business premises in Bournemouth for the sum of £23,000, and the counter-claim was for damages for breach of contract. The plaintiffs contended that they had obtained a fair price for the property in Old Christchurch-road, at which the defendant had carried on business as a costumier. The defendant's case was that (1) he had not been informed by the plaintiffs that the purchaser was acting for Messrs. Lamberts, (2) had he been aware of this circumstance the defendant might not have accepted the above purchase price. Mr. Justice Talbot observed that an agent must devote his whole skill and diligence to the interests of his principal, who was entitled to know all that came to the agent's knowledge in relation to the sale. The plaintiffs, having agreed not to divulge the name of Lamberts, were then forced to deceive the defendant by pretending that the nominee was the real purchaser, and in control of the contracts. The plaintiffs, having thus failed in their duty, had forfeited their commission, and judgment was accordingly given for the defendant, with costs on the claim, and for £250 on the counter-claim, with costs. See further the Practice Note on this subject in our issue of the 26th December, 1931 (75 SOL. J. 881).

POINTS IN PRACTICE

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Liability for Damage by Golf Ball.

Q. 2448. We should be much obliged if you could kindly tell us if you know of any case dealing with the common law liability which bears on the following matter: A farmer lets some of his land on a verbal licence to a golf club, but retains the grazing rights. A lamb is killed by being struck by a golf ball. Apart from any agreement between the parties as to accidents, are the club liable for the value of the lamb? We may mention that the club are insured against third party claims but the insurance company deny liability.

A. Assuming that the lamb belonged to the farmer (i.e., was not being agisted on behalf of a third party) the farmer is prevented from claiming for the loss, under the principle of "*volenti non fit injuria*." The club could only be liable (apart from agreement) if the lamb was killed outside the course by a ball which had been diverted, owing to the hole or tee being laid too close to the road or neighbouring property, so as to be a nuisance: see *Castle* v. *St. Augustine's Links Co. Ltd.* (1922), 38 T.L.R. 615. The individual golfer would be liable for negligence, if he played a shot into a flock of sheep (or directly at the particular lamb), but this would not render the club jointly liable. On the question (if any) of the ball being diverted by wind, see *Story* v. *Haslam* (1931), 75 SOL. J. 112, where there was a finding of negligence against the golfer.

Damage to Lawns from Leaves.

Q. 2449. A takes a plot of land on long lease and erects a dwelling-house thereon. He spends considerable money on his garden, particularly on grass lawns which are specially laid and suitable for games for private use. B takes an adjoining plot and also erects a dwelling-house and, on his own land plants trees which, however, do not overhang the land of A. The leaves from B's trees through the action of the wind falls on to A's lawns and he is inconvenienced thereby. The property of B has been erected about five years. Has A any remedy against B, and if so—what?

A. The damage is entirely due to the action of the wind, as B's trees do not overhang A's land, and therefore A cannot rely upon the first part of the principle laid down in *Smith* v. *Giddy* [1904] 2 K.B. 448. A is also not suffering any damage to crops, as the grass of a lawn is not within that category, and A, therefore, fails to establish the second part of the above principle. B would not be liable, even if he allowed thistle seeds to blow over A's land, and so cause damage by taking root; see *Giles* v. *Walker* (1890), 24 Q.B.D. 656. A has, therefore, no remedy against B.

Post-1925 Sale by One Trustee—Receipt for Purchase Money—Legal Estate—Confirmation.

Q. 2450. A sole trustee seized in fee simple upon trust for sale sold and conveyed the property in fee simple to a purchaser and gave a receipt for the purchase money. The receipt by a single trustee is evidently not sufficient, but did the conveyance pass the legal estate to the purchaser? It is now proposed to appoint a new trustee, and then for the two trustees to give the purchaser a receipt for the purchase money. Will this be sufficient to give the purchaser a good title? If not, what is the best and proper course to take to make his title good?

A. We express the opinion that the legal estate passed to the purchaser, who, however, has no evidence to prevent the presumption of a resulting trust in favour of the trustee-vendor arising. While we think that the proposed receipt by the old and new trustees will put the title in order, we would observe that a simple receipt is not evidence of the first order. We advise, therefore, that after the appointment of the new trustee a deed of confirmation of the sale (including an assurance of the legal estate) be executed. If this procedure is adopted a valid receipt for the purchase money will be obtained under seal and any doubt as to the passage of the legal estate resolved.

Appointment of New Trustee by Executor of last Surviving who has not Proved Will.

Q. 2451. The sole executor and trustee of a will has died. The testator's debts have been paid with one exception, and it is desired to appoint new trustees with as little delay as possible. Can the executors of the deceased trustee make the appointment before probate? Section 36 (5), Trustee Act 1925, contemplates appointment in certain circumstances without probate. Would an appointment before probate by all the executors who eventually proved the deceased trustee's will also be good?

A. "Personal representative" means the executor or administrator for the time being (see definition clause, s. 68), and an executor is not the less an executor by reason of the fact that he has not proved (see *Pawley and London Prov. Banks Contract* [1900] 1 Ch. 58). The opinion is given that the appointment would be good, but would have to be verified by the subsequent probate. The difficulty is, however, that if the trust estate includes investments (not being bearer securities), or a bank account, these cannot be transferred before probate, and a subsequent purchaser of any property in respect of which there is intended to be an express or implied transfer to the new trustee, may raise a requisition and may not be easily satisfied that the law is as above stated.

Enfranchised Land—Tenant on Rolls Trustee for Corporation—Vesting.

Q. 2452. Prior to the 1st January, 1926, J. was admitted as tenant on the Court Rolls to certain copyhold property in the Manor of S. This property was in fact purchased with money belonging to P. Limited, a duly incorporated company, and J. signed a statement to the effect that such property was purchased out of moneys belonging to the company, and that he held the property on behalf of the company. In the year 1931 a compensation agreement was entered into between the Lords of the Manor and the said J., and all the compensation money paid. The company now desire to mortgage the property. In view of the provisions of the Law of Property Acts, is the legal estate in the property vested in the limited company or in J.? Would a mortgage executed by J. require registration under the provisions of the Companies Acts?

A. The freehold estate in fee simple vested, on the 1st January, 1926, in the company, by virtue of L.P.A., 1922, Sched. XII, para. 8 (*g*). It would appear, therefore, that the compensation agreement was defective in that J. was not the "tenant" within s. 138 of the L.P.A., 1922 (see definition in s. 143). The mortgage will, of course, require registration under the Companies Act, 1929.

In Lighter Vein.

THE WEEK'S ANNIVERSARY.

On the 28th April, 1789, Lord Lifford, Lord Chancellor of Ireland, died at the age of eighty. Less than a week before he had been well enough to give a big dinner party. He began his legal career as clerk to a solicitor in Coventry, where his father, a mercer by trade, had been mayor. Eventually, however, he turned to the Bar and joined the Middle Temple. In England he had the reputation of a dull, heavy lawyer, a bore in the House of Commons, a man whose birth, education and practice made him quite unsuitable for the office to which he was raised. However, within two years of his appointment he had amply justified his selection. The appreciation of the Irish House of Lords of his services as Speaker was marked by the doubling of his remuneration. He conducted the business of his court ably, expeditiously and to the general satisfaction of the suitors, and he was much respected and very popular both in public and private. He remained Chancellor for the unusually long period of over twenty years. It was said that there was "no incapacity in him, but very much the reverse, nor any dissatisfaction unless in some who wish for his place." These waited long.

LAWYERS' WILLS.

The failure of the late Mr. Prideaux's testamentary attempt to preserve from culinary martyrdom the race of "crab, eel, crayfish, lobster, prawn and shrimp" adds yet another to the long list of lawyers' wills which have been found wanting. Viscount Llandaff, who left over £100,000, failed to observe the formality of having an alteration attested by witnesses. Lord Grimthorpe (formerly Sir Edmund Beckett, Q.C.), that self-assertive and quarrelsome genius who spent his life in discord, most appropriately left behind him a heritage of strife in the form of an involved will which created plentiful litigation over his fortune of one and a half millions. During his lifetime he had bungled the making of the will of his friend Dent, the eminent clock-maker—a failure which was once thrown in his face in open court by a witness whom he provoked in cross-examination. Even Chancellors, such as my Lords Halsbury and Lyndhurst, have tumbled into testamentary pitfalls, and so did Joyce, J., of the Chancery Division. Stranger still were the blunders of Lord St. Helier, who had been President of the Probate Division.

DANCING DAYS.

I am sorry to note from a recent observation that His Honour Judge Turner considers his dancing days are over. They need not be, for Chief Baron Pollock seems to have practised this form of agility till he was nigh on eighty. Once at the Bedford Assizes, the Sheriff's carriage was ordered to come again in twenty minutes "as the Chief Baron is now occupied in a quadrille." But this generation of judges is graver. Not long ago the Recorder of Dover, when the Mayor of that reputable town presented him with the symbolic white gloves, confessed that as he danced no more he could put them to no practical use.

MARTIAL LAWYERS.

Henceforth, with the approval of His Majesty, the Inns of Court Officers Training Corps will be known as the Inns of Court Regiment. Here is another step in the strong martial tradition of the four learned societies. It has been manifested in many emergencies—the Civil Wars, the Napoleonic Wars and the '45. The Gordon Riots provided a species of comic relief for this fighting spirit, when a corps seventy strong was raised among the Inns of Court. Sir Samuel Romilly stood on guard at Gray's Inn Gate. Erskine, a future Lord Chancellor, returned for a time to his old profession of arms. "Regimentals we had not, but we were very proud of our muskets," remarked Vicary Gibbs afterwards. He and Kenyon, both of them future Chief Justices, were the awkward recruits and the despair of the drill sergeant, who put them in the rear rank on account of their unsoldierly appearance. Oddly enough, Kenyon subsequently defended Lord George Gordon on his trial. Since the appointment of Lawrence, J., there has been a soldier on the Bench of each Division of the High Court, Bennett, J., in Chancery and Langton, J., in Divorce.

Reviews.

Introduction to Real Property Law. By J. A. WATSON, LL.D., B.Sc., of the Inner Temple, Barrister-at-Law. 1932. Royal 8vo. pp. xiv and (with Index) 274. London: Sweet & Maxwell, Limited. 15s. net.

The learned author of this book is well known as a lecturer at the University of London, and his experience of the needs of the law student has enabled him to produce a volume of a sort the necessity for which has long been outstanding. The difficulty of explaining the modern English law of real property in accurate terms intelligible to law students appears to us to have been effectively surmounted in this volume, and we shall be surprised if it does not secure a very wide circulation. Dr. Watson makes no claim to the production here of a text-book on real property law; indeed, he pays high tribute to the writers of the principal text-books which have appeared since the breaking up of the Birkenhead Act of 1922 into its component parts, and makes it quite clear that the sole object of his own volume is to provide an exposition purely introductory to those well-known larger works. The result is a book which even an established practitioner who is not himself an expert on property law can read through with advantage. It is written in interesting and attractive style throughout. Beginning with an introductory historical sketch, we are taken through the whole subject point by point—each separate phase being explained in simple and accurate form.

The volume contains twenty-two chapters, covering all forms of legal and equitable interests—wills and mortgages of land, conveyances, actions for recovery, contracts for sale, registration of charges, deeds and titles being also specially treated. The student will thus acquire something very much more than a theoretical basis for his knowledge; he steps at once into the practical application of the legal principles he is studying. The case-law in this volume is select and well chosen. The learned author has not set his endeavours upon an imposing collection of every case in any way remotely pertinent to his subject. On the other hand, he has provided an exhaustive and very accurate index which adds greatly to the value of the book.

Books Received.

Dicey's Conflict of Laws. Fifth Edition. 1932. By A. BERRIEDALE KEITH, D.C.L., D.Litt., of the Inner Temple, Barrister-at-Law; Advocate of the Scottish Bar. Royal 8vo. pp. cxxxiv and (with Index) 1,144. London: Stevens and Sons, Ltd.; Sweet & Maxwell, Ltd. 55s. net.

The Law and Organisation of the British Civil Service. By N. E. MUSTOE, M.A., LL.B., of Gray's Inn, Barrister-at-Law, and of the Solicitor's Department, Inland Revenue. 1932. Demy 8vo. pp. xix and (with Index) 199. London: Sir Isaac Pitman & Sons, Ltd. 7s. 6d. net.

A British Brief: England's Reparation Victims and War Debt. By EDWARD MOUSLEY, M.A., LL.B. (Cantab.), LL.B. (N.Z.), of Lincoln's Inn, Barrister-at-Law. 1932. Crown 8vo. pp. (with Index) 206. London: Hutchinson and Co. (Publishers), Ltd. 5s. net.

[All books acknowledged or reviewed can be obtained through The Solicitors' Law Stationery Society, Limited, London and Liverpool.]

Correspondence.

Re Price: Trumper v. *Price.*

Sir,—In his note of *Re Price: Trumper* v. *Price*, in your issue of the 26th March (where it was held that two investments in Conversion Stock and Treasury Bonds, into which textatrix's £400 National War Bonds had been converted before the date of the will, passed under a bequest of "my £400 5% War Loan 1929–47"), the reporter has omitted what may have been a deciding factor, viz., that the testatrix in an earlier will made *prior* to the conversion had made a bequest in the same terms.

Norwich, 4th April. ERNEST I. WATSON.

Income Tax on Mortgage Interest on decease of Mortgagee.

Sir,—In the answer to query 2445 the opinion is given that, although for the purpose of income tax repayment claim dividends not declared till after the death of the owner of stock or shares are not apportionable, mortgage interest is.

This opinion is quite contrary to what I find has been the practice of inspectors, even before the Scotch decision of *Com. of I. R.* v. *Henderson* referred to in the answer.

Inspectors apparently base their present practice on *Wigmore* v. *Summerson* [1926] 1 K.B. 131, in which case Rowlatt, J., approving apparently of the concession of the Crown's counsel on this point, said "therefore if a security passes . . . by succession there is no apportionment of tax attaching to the income when it is paid on the whole of the income in the hands of the possessor at the moment tax is paid." In an earlier part of the judgment it is stated the counsel for the Crown conceded there was no case for apportionment where the income was taxed by deduction: when the interest is paid, it is paid less tax; there is an end of it and there is no room for apportionment. The quotations are made from the *Law Journal Reports*.

Norwich, 18th April. ERNEST I. WATSON.

Collection of Certificates, etc.: Land Registry's Regulation.

Sir,—We should like to voice our dissatisfaction—a dissatisfaction which we feel will be general—with the regulation recently laid down by the Land Registry officials, requiring certificates and other documents to be collected instead of being sent by registered post.

In our opinion the new system is open to objection for the following two reasons:—

(*a*) It will prove an inconvenience to solicitors—especially those practising some distance from the Registry—as their clerks' time will be occupied in travelling to and from the Registry.

(*b*) There is always the possibility that the notice sent out from the register may get lost, making it easy for the documents to be obtained by those who are not entitled to them.

We do not know what prompted the introduction of the new system. It would be difficult to advance a cogent reason in its favour. If, as it would seem, it is part of an economy campaign we can only suggest that additional expenditure may be incurred in this innovation.

We strongly urge solicitors to protest against the innovation immediately before the system becomes established.

London, W.1. 16th April. A. E. HAMLIN, BROWN & Co.

Execution of Deeds by Companies.

Sir,—I carefully read your remarks regarding the quotation from "Palmer's Company Law" (13th ed., p. 272), in your issue of 5th March, under the notes in a "Conveyancer's Diary" (p. 160), and also your correspondent's letter on p. 164.

The passage, no doubt, may be incomplete in omitting to refer to the exception made by s. 74 (1) of the Law of Property Act 1925, but the remarks on p. 248 in "Wolstenholme and Cherry," as interpretated in "A Conveyancer's Diary," is also somewhat misleading. The seal only applies to "purchasers" under "deeds," and the general rule imposing the necessity of inquiry as to the mode of affixing the company's seal, it is submitted, still remains as to documents which are not deeds, e.g., share certificates (see *South London Greyhound Racecourses Ltd.* v. *Wake* [1931] 1 Ch. 496): and as to persons other than purchasers. A. R. TAYLOUR.

Lincoln's Inn, W.C.2.
18th March.

[We thank the learned joint editor of "Palmer" for his letter and regret the delay in publishing it. We agree with what Mr. Taylour says—but of course, our correspondent and the writer of "A Conveyancer's Diary" had in mind only deeds of conveyance to purchasers.—ED., *Sol. J.*]

Obituary.

SIR ARTHUR THRING.

Sir Arthur Thring, K.C.B., who died on Sunday, the 17th April, at the age of seventy-two, had been First Parliamentary Counsel to the Treasury from 1903 to 1917, and Clerk of the Parliaments from 1917 to 1930, when he retired. He was educated at Winchester and New College, Oxford, where he took a first-class in Classical Moderations in 1880 and a second in *Lit. Hum.* in 1883. In 1887 he was called to the Bar by Lincoln's Inn, and practised chiefly before Parliamentary Committees and in local Government inquiries. In 1902 he was appointed Second Parliamentary Counsel to the Treasury, and in 1903 he became First Counsel. He was made a C.B. in 1902, and a K.C.B. in 1908. In 1917 he succeeded Sir Henry Graham as Clerk of the Parliaments, filling that office successfully until his retirement two years ago.

MR. P. B. LAMBERT.

Mr. Percival Beevor Lambert, barrister-at-law, of New-square, Lincoln's Inn, died last week at the age of eighty-six. He was called to the Bar by Lincoln's Inn in 1873, and for many years enjoyed a steady practice as an Equity Junior.

MR. C. R. H. HARDCASTLE.

The death occurred on Saturday, the 2nd April, of Mr. Charles Robert Hargreaves Hardcastle, LL.B., of Broadway, Worcestershire. He was educated at Trinity College, Cambridge. Mr. Hardcastle was seventy-seven years of age, and was admitted a solicitor in 1881. He was a member of the firm of Messrs. Thorowgood, Tabor & Hardcastle, of the City of London, and retired from practice in 1930. From 1900 until his retirement he was Solicitor to the Merchant Taylors Company.

MR. R. DIXON.

Mr. Robert Dixon, retired solicitor, of Bath, died recently, at the age of sixty-five. Admitted in 1890, he practised for many years in Pewsey, Wiltshire, first with his uncle, Mr. Stephen Dixon, and later with Mr. M. L. Mason, in the firm of Messrs. Dixon & Mason. Ill-health forced him to retire a few years ago, and he removed to Bath. While at Pewsey he was Clerk to the old and now defunct Board of Guardians, and Clerk to the R.D.C. and to the local Justices.

MR. W. KIDD.

Mr. William Kidd, a partner in the firm of Messrs. Niven, Macniven & Co., solicitors, of Glasgow, died at his home in Glasgow, on Friday, the 15th April. Mr. Kidd was associated with his firm for a period of nearly fifty years, and became a partner in 1907.

MR. G. YOUNG.

Mr. George Young, solicitor, who practised as Messrs. Young and Co., of New-square, Lincoln's Inn, and Brixton, died on Saturday, the 16th April. He was educated at King Edward's School, Birmingham, and was admitted a solicitor in 1898.

MR. D. YOUNG.

Mr. Douglas Young, the well-known auctioneer and estate agent, practising chiefly in the City and at Clapham, died on Wednesday, the 20th April, at the age of seventy-nine. He had been a member of the Surveyors' Institution since 1890, and was President of the Auctioneers' and Estate Agents' Institute in 1907-1908.

Notes of Cases.

High Court—Chancery Division.

Bundey *v.* **Seabrook.**

Clauson, J. 14th April.

FRIENDLY SOCIETY—ALTERATION OF RULES—LEVY ON PROSPEROUS BRANCHES—IN AID OF NON-PROSPEROUS BRANCHES.

The question raised by this action was as to the right of the Ancient Order of Foresters Friendly Society to alter their laws so as to compel prosperous branches to contribute to the support of branches not prospering. The plaintiffs, as trustees of Branch 1,886, claimed a declaration that certain amendments purported to be made at a meeting in August, 1931, were invalid, and they also claimed an injunction to restrain the defendants as the trustees of the Order and the members of the executive council from registering the said amendments. The question was whether the central body could make a levy on the branches by a resolution of a simple majority or whether it required a nine-tenths majority. The prosperous branches objected that under the rules as they stood their funds could not be taken and they contended that the resolution was invalid as not being passed by a nine-tenths majority.

CLAUSON, J., in delivering judgment, said the pith and marrow of the Order was that it was a mutual friendly society with the object of mutual benefit, the strong assisting the weak. It was found desirable some years ago to form an Order contingencies fund to assist Courts to make good any deficiency, but the contributions so provided were not sufficient, and the amendments now proposed to that law were for providing sufficient contributions. As a rule alteration to the rules could be made by a majority, but certain alterations could only be made by a majority of nine-tenths, and it was said that the proposed alteration required a nine-tenths majority because it operated to interfere with the control of the branch over its funds. But the method proposed by the amendment of obtaining funds from the branches being for the legitimate purposes and objects of the Order as a whole, it necessarily followed that a nine-tenths majority was not required. Therefore the amendment was in every respect valid and the action must be dismissed with costs.

COUNSEL: *Archer*, K.C., and *Baden Fuller*; *Gavin Simonds*, K.C., and *P. McWalters*.

SOLICITORS: *Nicholls & Co.*, for *Charles Ansell, Emanuel and Emanuel*; *Whittington, Son & Barham*.

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Narramore *v.* **Fuller Hall & Foulsham.**

Rowlatt, J. 3rd March.

AUCTION SALE—RESERVED PRICE—VENDOR BIDDING PERSONALLY—SALE BELOW RESERVED PRICE—CLAIM FOR DAMAGES—POSITION OF AUCTIONEER.

In this action Alexander Daniel Narramore claimed from Fuller Hall & Foulsham, auctioneers, £125, to which he said that he was entitled on a breach of contract by the defendants in respect of an auction sale of machinery and other articles at Lots-road, Chelsea. The plaintiff alleged that the defendants agreed to sell the goods in question on the basis that they should receive 5 per cent. of the amount realised. There was an express or implied obligation not to sell goods at less than the reserve price. The plaintiff alleged that goods were in fact sold for less than the reserve price, and he claimed in consequence that £125 was due to him. The defendants denied that there had been any breach of contract, and contended that whenever a lot was sold at a figure lower than the reserve price, the plaintiff, who was present, by bidding himself for that lot had thereby cancelled the reserve price even though the lot was knocked down to a purchaser before the reserve was reached.

ROWLATT, J., said that the Sale of Goods Act allowed a vendor, where the right to bid was expressly reserved, as in the present case, to bid himself or to bid by one agent. He (the vendor) could not have two persons bidding on his behalf, or himself and one other. When the plaintiff bid himself, therefore, it would have been a breach of the Act if the auctioneer or some other person employed by him had also bid. The defendants, in the widest view, did the best possible thing, and in the narrower sense, the only lawful thing. It seemed neither business nor sense to him (his lordship) to come to court and say that one could get damages in those circumstances. Judgment for the defendants, except for a sum of £7 18s. commission which the defendants had agreed to forego.

A stay of execution was granted.

COUNSEL: *Robert Fortune*, for the plaintiff; *B. L. O'Malley* for the defendants.

SOLICITORS: *Langford Borrowdale & Thain*; *Osborne A. Butcher*.

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Lanificio Di Manerbio S.A. *v.* **I. and R. Gold.**

MacKinnon, J. 21st March.

CONTRACT—SALE OF GOODS—FOREIGN SELLER—GOVERNMENT DUTY IMPOSED DURING CONTRACT PERIOD—LIABILITIES OF PARTIES—FINANCE ACT, 1901 (1 Edw. 7, c. 7), s. 10 (1).

The plaintiffs in this case, Lanificio di Manerbio S.A., textile manufacturers in Italy, claimed from the defendants, I. and R. Gold, merchants in England, £141, the balance of the price of goods sold and delivered. The defendants admitted the claim, but counter-claimed for damages for alleged breach of contract. Two contracts for the sale by the plaintiffs to the defendants of a number of pieces of cloth were made in October and November, 1931. In one case the contract contained the expression "free house London," and in the other "free London warehouse." After a part of the goods had been delivered under the contracts the Abnormal Importations (Customs Duties) Act, 1931, came into force, receiving the Royal Assent on the 20th November, and a duty of 50 per cent. was imposed immediately on the contract goods. The plaintiffs thereupon refused to deliver any more goods under the contracts unless the defendants agreed to pay an additional price to cover the duty. That the defendants would not do, nor would they pay the outstanding balance for the goods already delivered. The plaintiffs thereupon brought the present action, and the defendants counter-claimed to compel the plaintiffs to continue deliveries and pay the duty themselves.

MACKINNON, J., said that the plaintiffs relied on s. 10 (1) of the Finance Act, 1901. In the absence of an agreement to the contrary, said his lordship, after reading the above section, the plaintiffs could have forced the defendants to go on taking deliveries and to pay the duty on them. But he was satisfied on the evidence that there was an oral agreement by the plaintiffs that they would be responsible for the duty. Even without that express oral agreement, however, the words in the contracts "free house London" and "free London warehouse" appeared to be sufficient to make the plaintiffs liable for the duty, as they constituted an "agreement to the contrary" within the meaning of the section. Judgment for the plaintiffs on the claim, which was admitted, and judgment for the defendants on the counter-claim for damages for refusal by the plaintiffs to continue deliveries.

COUNSEL: *Eales*, K.C., and *Greer Jackson*, for the plaintiffs; *Somervell*, K.C., and *G. O. Slade*, for the defendants.

SOLICITORS: *Henry Hilbery & Son: Stafford Clark & Co.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Waithman, Donegan & Co. *v.* Ramirez.

Roche, J. 13th April.

PRINCIPAL AND AGENT—STOCK EXCHANGE—HALF COMMISSION AGREEMENT—PRINCIPAL'S CONSENT WITHDRAWN—AGREEMENT ENDED—RULES AND REGULATIONS OF THE STOCK EXCHANGE, r. 199 (5).

In this action the plaintiffs, stockbrokers, claimed £556 13s. as balance due to them for the purchase and sale of shares on behalf of the defendant on his own account. The defendant admitted the claim, but by counter-claim and set-off claimed commission as an agent which, he pleaded, on an account being taken, would be shown to exceed the amount of the claim. It was stated in evidence by the defendant that in April, 1926, he made a contract with the plaintiffs through one Duncan, a member of the plaintiff firm, that he should receive half-commission on all dealings in stocks and shares by the plaintiffs with clients introduced by him. At that time the defendant was secretary to General Aranguren, a Venezuelan, who was residing in Paris, and he introduced the General and a number of friends to the plaintiffs. From April, 1926, to October, 1928, the defendant received from the plaintiffs under the agreement more than £2,000 commission. In October, 1928, the defendant left the General's service, and the plaintiffs had refused to pay him commission on any further dealings in shares by the clients which had been introduced by him to the plaintiffs during his service with the General. It was said by Duncan in the evidence for the plaintiffs that he told the defendant when the agreement was made that if the client withdrew his consent the plaintiffs could no longer pay the defendant the half-commission. In October, 1928, General Aranguren told him (Duncan) that the defendant had left his service and that the plaintiffs were no longer to pay any commission to the defendant on his (the General's) dealings in stocks and shares.

ROCHE, J., said that the defendant claimed that he was entitled to half-commission on the transactions of General Aranguren with the plaintiffs after October, 1928, when he left the General's employment. While he was secretary to the General the defendant had been an agent within the meaning of r. 199 of the Rules and Regulations of the Stock Exchange, which provided that: "A broker who shares commission with an agent shall render a contract note, naming the agent and stating that the commission charged is shared with such agent under the provisions of this rule. . . ." Under the Rules and Regulations of the Stock Exchange and under the general law half-commission could not be paid to an agent without the principal's consent. When General Aranguren withdrew his consent to the receipt by the defendant of the commission, the right of the defendant to receive that commission from the plaintiffs ceased. Judgment for the plaintiffs, less certain deductions, for £406 11s., without costs to either party.

COUNSEL: *Kirkhouse Jenkins*, K.C., and *Daniel Hopkin*, for the plaintiffs: *Conway*, K.C., and *S. Parnell Kerr*, for the defendants.

SOLICITORS: *W. J. Homewood; Roberts, Seyd, Jackman and Falck.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

TABLE OF CASES previously reported in current volume.

Parliamentary News.

Progress of Bills.

House of Lords.

Chester Corporation Bill.
Read First Time. [14th April.

Edinburgh Corporation (Sheriff Court House, &c.) Order Confirmation Bill.
Read Third Time. [20th April.

Ministry of Health Provisional Orders (Margate and Yeovil) Bill.
Read Second Time. [20th April.

Ministry of Health Provisional Order (Northampton) Bill.
Read First Time. [19th April.

North Eastern Electric Supply Bill.
Read Second Time. [14th April.

Rochdale Corporation Bill.
Reported, with Amendments. [19th April.

Royal Society for the Prevention of Cruelty to Animals Bill.
Reported, with Amendments. [14th April.

South Staffordshire Water Bill.
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South Wales Electric Power Bill.
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Transitional Payments Prolongation (Unemployed Persons) Bill.
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Wheat Bill.
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House of Commons.

Blackpool Improvement Bill.
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Chester Corporation Bill.
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Edinburgh Corporation Order Confirmation Bill.
Read Third Time. [14th April.
Juries (Exemption of Firemen) Bill.
Reported, with Amendments. [19th April.
Ministry of Health Provisional Order (Northampton) Bill.
Read Third Time. [14th April.
Ministry of Health Provisional Orders (Derby and Stalybridge, Hyde, Mossley and Dukinfield Tramways and Electricity Board) Bill.
Read Second Time. [20th April.
Ministry of Health Provisional Orders (Lindsey and Lincoln Joint Smallpox Hospital District and Wandle Valley Joint Sewerage District) Bill.
Read Second Time. [20th April.
Sea Fisheries Provisional Orders (No. 2) Bill.
Read First Time. [19th April.
Trent Navigation Bill.
Reported, with Amendments. [19th April.

Societies.

Inns of Court.

CALLS TO THE BAR.

Wednesday, the 20th April, was Call Night at the Inns of Court. The following were called:—

LINCOLN'S INN.

S. Agorwala, B.A. Calcutta; E. G. Wright, B.A. Cantab.; C. S. T. Edmondson, Lond. Univ.; D. B. Kohli, B.A. Punjab; J. Singh, Lond. Univ., Vakil of Allahabad High Court.

INNER TEMPLE.

J. E. Jewell, Trin. Hall, Camb., B.A.; I. G. H. Campbell, Trin. Coll., Camb., B.A.; Captain M. J. Renton, Pemb. Coll., Camb.; C. P. L. Whishaw, Worc. Coll., Oxf., B.A.; The Hon. T. D. F. Mitford; G. H. Peile, Trin. Coll., Camb., B.A.

MIDDLE TEMPLE.

W. J. K. Diplock (holder of a Certificate of Honour, awarded Trinity Term, 1931), B.A., Univ. Coll., Oxf., Harmsworth Law Scholar; J. A. Heald, M.C., B.Sc., Lond.; A. E. C. Prescott, B.A., Ch. Ch., Oxf., Harmsworth Law Scholar; Marguerite L. Harris; W. D. Phillips, B.A., Jesus Coll., Camb.; J. C. Choudhury; A. G. Rao Sahib, B.Sc., Lond., B.A., Madras; C. C. Tan; E. E. Ebito, LL.B., Howard Univ., Washington; G. Avgherinos, B.A., B.N.C., Oxf., Barstow Scholar, Harmsworth Law Scholar.

GRAY'S INN.

W. H. France, M.D., Durham, L.R.C.P., London, M.R.C.S., Eng.; J. M. Gray, formerly a solicitor, M.A., King's Coll., Camb., a Magistrate in the Colonial Civil Service, Uganda Protectorate; R. Clark, M.A., LL.B., Glasgow; J. R. Willis, B.A., LL.B., Trin. Coll., Dublin; Lettice Vivian, B.A., Lond.; J. C. Giblin, B.Sc., Lond.; M. Lawrey, Paym., Lieut.-Com., R.N.; A. J. Edney, Capt., R.E.; I. Vair-Turnbull, B.A., Oriel Coll., Oxf.

Solicitors' Benevolent Association.

The monthly meeting of the board of directors of this Association was held on the 13th April, at 60 Carey-street, London, Mr. E. R. Cook, C.B.E., in the chair. The other directors present were: Sir A. N. Hill, Bart., Sir E. F. Knapp-Fisher, and Messrs. E. E. Bird, A. C. Borlase (Brighton), P. D. Botterell, C.B.E., T. S. Curtis, E. F. Dent, O. J. Humbert, R. B. Johns (Plymouth), C. G. May, H. A. H. Newington, H. F. Plant and A. B. Urmston (Maidstone); £1,397 was distributed in grants of relief, five new members were admitted, and other general business transacted.

Association of County Court Registrars.

This Association held its annual general meeting on Friday, the 15th April, in the Council Chamber of 60, Carey-street, the delightful Adam house which The Law Society recently purchased as an annexe. Sir Arthur O. Jennings, the President, took the chair, and was unanimously re-elected. The honour recently conferred on him gives much satisfaction to the Association, the members of which hold him in great respect and affection. As Mr. Gilbert Hicks pointed out in proposing a vote of congratulation, Sir Arthur's knighthood is a recognition not only of his personal merits but of the standing of the Association. The Department recognised, he said, that the post of registrar is a much more judicial one than it was, now that so many courts have been amalgamated; the present honour placed their President on the same level as a judge.

The President, in moving the adoption of the report and accounts, again referred to the dwindling membership of the Association, due entirely to the policy of the Department to concentrate the work of the county courts as much as possible in the main districts. While the arrangement might make individual registrars more important it made their work more arduous and reduced the resources of the Association. Nevertheless, the Association continued to issue its yearly volume of Practice Notes, containing information on county court procedure which could not be found elsewhere and which was of great value. In addition to having their work increased, registrars—never a highly-paid body—had suffered a severe cut in their salaries, like all other Government servants.

Mr. H. H. Payne, the Secretary and Treasurer, in seconding the motion, struck a more cheering note when he pointed out that the Association had a credit bank balance of £53, due largely to economies in the printing of the Practice Notes and in not holding a meeting in the Autumn. It would not, he thought, be necessary to raise the subscriptions for some years.

After considering a number of technical matters, the meeting adjourned for tea. The annual dinner was held at the Junior Constitutional Club on the same evening.

Gray's Inn.

Thursday, 14th April, being the Grand Day of Easter Term at Gray's Inn, the Treasurer (Vice-Chancellor Sir Courthope Wilson) and the Masters of the Bench entertained at dinner the following guests: Lord Stanley, M.C., M.P., Viscount Clive, The Right Hon. Lord Leconfield, The Right Hon. Lord Riddell, The Right Hon. Sir George Lowndes, K.C.S.I., K.C., The Hon. Mr. Justice du Parcq, The President of the Royal Academy (Sir William Llewellyn, K.C.V.O., R.A.), The President of The Law Society (Mr. Philip H. Martineau), Rear-Admiral Sir Edward Inglefield, K.B.E., R.N., The Vice-Chancellor of Liverpool University (Dr. H. J. W. Hetherington), Professor A. L. Dixon, F.R.S., and Mr. Louis Forbes Fergusson. The Benchers present in addition to the Treasurer were: The Right Hon. Sir Dunbar Plunket Barton, Bart., K.C., Mr. Edward Clayton, K.C., The Right Hon. Lord Atkin, The Right Hon. Lord Justice Greer, Sir Cecil Walsh, K.C., Mr. R. E. Dummett, The Right Hon. Lord Thankerton, The Right Hon. Lord Greenwood, K.C., Sir Walter Greaves-Lord, K.C., M.P., Mr. G. D. Keogh, Mr. Bernard Campion, K.C., Mr. J. W. Ross-Brown, K.C., Mr. James Whitehead, K.C., Mr. Frederick Hinde, Mr. R. Storry Deans, Mr. A. Andrewes Uthwatt, Mr. Malcolm Hilbery, K.C., Mr. Noel Middleton, Mr. N. L. C. Macaskie, K.C., Mr. W. Trevor Watson, K.C., Mr. Harold Derbyshire, M.C., K.C., Sir Albion Richardson, C.B.E., K.C., with the Preacher (The Rev. Canon Feilding Ottley, M.A.) and the Under-Treasurer (Mr. D. W. Douthwaite).

The Barristers' Benevolent Association.

The annual general meeting of this Association will be held in the Inner Temple Hall on Thursday, the 5th May, at 4.30 p.m., when the Right Hon. Lord Russell of Killowen has kindly promised to preside. All members of the Inns of Court, whether subscribers to the Association's funds or not, are cordially invited to attend.

Law Students' Debating Society.

At a meeting of the Society held at The Law Society's Court Room, on Tuesday, 19th April, (Chairman, Mr. A. L. Ungoed-Thomas), the subject for debate was "That the case of *West Midland Joint Electricity Authority* v. *Pitt and Others; Minister of Transport* v. *Same*, 48 T.L.R. 180, was wrongly decided." Mr. H. I. Willis opened in the affirmative; Mr. L. F. Biden opened in the negative. Mr. Henry Peck

seconded in the affirmative; Mr. A. G. White seconded in the negative. The following members also spoke: Messrs. W. M. Pleadwell, P. W. Iliff. The opener having replied, and the Chairman having summed up, the motion was lost by five votes. There were twenty-two members and one visitor present.

Legal Notes and News.

Honours and Appointments.

Colonel W. ALAN GILLETT, T.D., D.L., solicitor, of Messrs. Baileys, Shaw & Gillett, Berners-street, W.1, has been elected a Member of the Governing Body of St. John's School, Leatherhead, for the sons of clergy.

Mr. G. H. R. WILSON, Assistant Solicitor to the Gateshead Corporation, has been appointed Deputy Town Clerk of Guildford.

Mr. ARTHUR PICKLES, solicitor, a member of the firm of Messrs. Oxley & Coward, solicitors, of Rotherham, has been appointed Law Clerk to the Feoffees of the Common Lands of Rotherham, a trust which dates back to the time of Queen Elizabeth.

Mr. SAMUEL COLEMAN, solicitor, of Seymour-place, W.1, has been appointed Prosecuting Solicitor to St. Marylebone and Chelsea Borough Councils, in succession to the late Mr. F. Freke Palmer.

Wills and Bequests.

Mr. George Stredwick, solicitor, of Bristol and Filton, left £7,779, with net personalty £3,305.

Mr. John David Sym, M.A., advocate, of Crieff, Perthshire, editor of the *Scottish Law Reporter*, 1882-86, left personal estate valued at £12,695.

Mr. William Stoney, formerly an advocate in South Africa, who died on the 14th January, left £11,968, with net personalty £11,847. He left all of his property to the Public Trustee of New Zealand, upon trust to apply the income in the assistance of such emigrants of the poorer classes who shall have arrived in New Zealand from Birmingham, Warwickshire, and from the surrounding counties as the Public Trustee in his discretion shall select for assistance, having regard to their poverty.

Mr. Henry Joseph Concanon, solicitor, of Tuam, Co. Galway, left personal estate in the Irish Free State valued at £13,840.

Mr. Alfred Conolly, of Llandudno, Carnarvon, for forty-one years Town Clerk of Llandudno, left £1,699, with net personalty £1,272.

On the 16th April, Mr. Deputy and Under-Sheriff T. Howard Deighton, solicitor, of 90, Cannon-street, E.C.4, completed thirty years' service as a member of the Corporation of the City of London, having been elected to that position on the 16th April, 1902.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

DATE.	EMERGENCY ROTA.	APPEAL COURT No. 1.	GROUP I. MR. JUSTICE EVE. Witness. Part II.	MR. JUSTICE MAUGHAM. Witness. Part I.
M'nd'y Apl. 25	Mr. Hicks Beach	Mr. Ritchie	Mr.*Hicks Beach	Mr.*Blaker
Tuesday .. 26	Andrews	Blaker	Blaker	*Jones
Wednesday 27	Jones	More	*Jones	*Hicks Beach
Thursday . 28	Ritchie	Hicks Beach	Hicks Beach	*Blaker
Friday 29	Blaker	Andrews	*Blaker	Jones
Saturday .. 30	More	Jones	Jones	Hicks Beach

DATE.	GROUP I. MR. JUSTICE BENNETT. Non-Witness.	MR. JUSTICE CLAUSON. Witness. Part I.	GROUP II. MR. JUSTICE LUXMOORE. Non-Witness.	MR. JUSTICE FARWELL. Witness Part II
M'nd'y Apl. 25	Mr. Jones	Mr.*Andrews	Mr. More	Mr. Ritchie
Tuesday .. 26	Hicks Beach	*More	Ritchie	*Andrews
Wednesday 27	Blaker	*Ritchie	Andrews	More
Thursday . 28	Jones	Andrews	More	*Ritchie
Friday 29	Hicks Beach	*More	Ritchie	Andrews
Saturday .. 30	Blaker	Ritchie	Andrews	More

* The Registrar will be in Chambers on these days, and also on the days when the Courts are not sitting.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (21st April, 1932) 3%. Next London Stock Exchange Settlement Thursday, 5th May, 1932.

	Middle Price 20 April 1932.	Flat Interest Yield. £ s. d.	Approximate Yield with redemption £ s. d.
English Government Securities.			
Consols 4% 1957 or after	94¼	4 4 10	—
Consols 2½%	60½	4 2 8	—
War Loan 5% 1929-47	103	4 17 1	—
War Loan 4½% 1925-45	102	4 8 3	4 6 1
Funding 4% Loan 1960-90	96½xd	4 2 11	4 3 2
Victory 4% Loan (Available for Estate Duty at par) Average life 31 years	98¼	4 1 6	4 2 0
Conversion 5% Loan 1944-64	106	4 14 4	4 12 9
Conversion 4½% Loan 1940-44	102¾	4 7 7	4 4 0
Conversion 3½% Loan 1961	84½	4 2 10	—
Local Loans 3% Stock 1912 or after	70	4 5 8	—
Bank Stock	273	4 7 10	—
India 4½% 1950-55	88½xd	5 1 9	—
India 3½%	65½	5 6 10	—
India 3%	56½	5 6 2	—
Sudan 4½% 1939-73	99½	4 10 5	4 10 6
Sudan 4% 1974	92½	4 6 6	4 7 10
Transvaal Government 3% 1923-53 (Guaranteed by British Government.)	86	3 9 9	4 0 2
Colonial Securities.			
Canada 3% 1938	93	3 4 6	4 5 1
Cape of Good Hope 4% 1916-36	96	4 3 4	4 10 10
Cape of Good Hope 3½% 1929-49	82½	4 4 10	5 0 3
Ceylon 5% 1960-70	106	4 14 4	4 13 3
Commonwealth of Australia 5% 1945-75	84½	5 18 4	6 0 3
Gold Coast 4½% 1956	100	4 10 0	4 10 0
Jamaica 4½% 1941-71	99	4 10 11	4 11 2
Natal 4% 1937	97	4 2 6	4 13 9
New South Wales 4½% 1935-45	69	6 10 5	8 10 10
New South Wales 5% 1945-65	68	7 7 1	7 14 5
New Zealand 4½% 1945	89½	5 0 7	5 13 7
New Zealand 5% 1946	99	5 1 0	5 2 0
Nigeria 5% 1950-60	105	4 15 3	4 13 7
Queensland 5% 1940-60	80½	6 4 3	6 10 7
South Africa 5% 1945-75	100½	4 19 6	4 19 5
South Australia 5% 1945-75	85½	5 17 0	5 18 9
Tasmania 5% 1945-75	89½	5 11 9	5 13 0
Victoria 5% 1945-75	82½	6 1 3	6 3 3
West Australia 5% 1945-75	84½	5 18 5	6 0 3
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corporation	68	4 8 2	—
Birmingham 5% 1946-56	105	4 15 3	4 13 1
Cardiff 5% 1945-65	103	4 17 1	4 16 5
Croydon 3% 1940-60	75	4 0 9	4 12 9
Hastings 5% 1947-67	103	4 17 1	4 16 4
Hull 3½% 1925-55	84	4 3 4	4 13 0
Liverpool 3½% Redeemable by agreement with holders or by purchase	80	4 7 6	—
London City 2½% Consolidated Stock after 1920 at option of Corporation	58	4 6 2	—
London City 3% Consolidated Stock after 1920 at option of Corporation	69	4 6 11	—
Metropolitan Water Board 3% "A" 1963-2003	70½	4 5 1	—
Do. do. 3% "B" 1934-2003	72	4 3 4	—
Middlesex C.C. 3½% 1927-47	89	3 18 8	4 10 9
Newcastle 3½% Irredeemable	76	4 12 2	—
Nottingham 3% Irredeemable	67	4 9 6	—
Stockton 5% 1946-66	103	4 17 1	4 16 5
Wolverhampton 5% 1946-56	103	4 17 1	4 15 7
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture	84½	4 14 9	—
Gt. Western Railway 5% Rent Charge	100	5 0 0	—
Gt. Western Rly. 5% Preference	72½	6 17 11	—
L. Mid. & Scot. Rly. 4% Debenture	79½	5 0 7	—
L. Mid. & Scot. Rly. 4% Guaranteed	68½	5 16 9	—
L. Mid. & Scot. Rly. 4% Preference	40½	9 17 7	—
Southern Railway 4% Debenture	80½	4 19 4	—
Southern Railway 5% Guaranteed	94½	5 5 10	—
Southern Railway 5% Preference	56½	8 17 0	—
*L. & N.E. Rly. 4% Debenture	72½	5 10 4	—
*L. & N.E. Rly. 4% 1st Guaranteed	61	6 11 2	—
*L. & N.E. Rly. 4% 1st Preference	34½	11 11 11	—

*The Prior Charge Stocks of the L. & N.E. Ry. are no longer available for Trustees under the heading of either Strict Trustee or Chancery Stocks as no dividend has been paid on that Company's Ordinary Stocks for the past year.